

(c) Whenever an administrative law judge orders dismissal of a proceeding in whole or in part, such order, in the absence of appeal, shall become the order of the Commission thirty (30) days after date of service of such order (and the Secretary shall so notify the parties), unless within such 30-day period the Commission decides to review such order on its own motion, in which case notice of such intention shall be served upon the parties.

(d) The Commission shall not, on its own initiative, review any initial decision or order of dismissal unless such review is requested by an individual Commissioner. Any such request must be transmitted to the Secretary within thirty (30) days after date of service of the decision or order. Such request shall be sufficient to bring the matter before the Commission for review. [Rule 227.]

[49 FR 44369, Nov. 6, 1984, as amended at 58 FR 27211, May 7, 1993; 61 FR 66617, Dec. 18, 1996]

**§ 502.228 Request for enlargement of time for filing exceptions and replies thereto.**

Requests for enlargement of time within which to file exceptions, and briefs in support thereof, or replies to exceptions shall conform to the applicable provisions of § 502.102. Requests for extensions of these periods will be granted only under exceptional circumstances duly demonstrated in the request. Except for good cause shown, such requests shall be filed and served not later than five (5) days before the expiration of the time fixed for the filing of such documents. Any enlargement of time granted will automatically extend by the same period the date for the filing of notice or review by the Commission. [Rule 228.]

**§ 502.229 Certification of record by presiding or other officer.**

The presiding or other officer shall certify and transmit the entire record to the Commission when (a) exceptions are filed or the time therefor has expired, (b) notice is given by the Commission that the initial decision will be reviewed on its own initiative, or (c) the Commission requires the case to be

certified to it for initial decision. [Rule 229.]

**§ 502.230 Reopening by presiding officer or Commission.**

(a) *Motion to reopen.* At any time after the conclusion of a hearing in a proceeding, but before issuance by the presiding officer of a recommended or initial decision, any party to the proceeding may file with the presiding officer a motion to reopen the proceeding for the purpose of receiving additional evidence. A motion to reopen shall be served in conformity with the requirements of subpart H and shall set forth the grounds requiring reopening of the proceeding, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing.

(b) *Reply.* Within ten (10) days following service of a motion to reopen, any party may reply to such motion.

(c) *Reopening by presiding officer.* At any time prior to filing his or her decision, the presiding officer upon his or her own motion may reopen a proceeding for the reception of further evidence.

(d) *Reopening by the Commission.* Where a decision has been issued by the presiding officer or where a decision by the presiding officer has been omitted, but before issuance of a Commission decision, the Commission may, after petition and reply in conformity with paragraphs (a) and (b) of this section, or upon its own motion, reopen a proceeding for the purpose of taking further evidence.

(e) *Remand by the Commission.* Nothing contained in this rule shall preclude the Commission from remanding a proceeding to the presiding officer for the taking of additional evidence or determining points of law. [Rule 230.]

[49 FR 44369, Nov. 6, 1984; 49 FR 47394, Dec. 4, 1984]

**Subpart N—Oral Argument;  
Submission for Final Decision**

**§ 502.241 Oral argument.**

(a) The Commission may hear oral argument either on its own motion or upon the written request of a party. If oral argument before the Commission

is desired on exceptions to an initial or recommended decision, or on a motion, petition, or application, a request therefor shall be made in writing. Any party may make such a request irrespective of its filing exceptions under § 502.227. If a brief on exceptions is filed, the request for oral argument shall be incorporated in such brief. Requests for oral argument on any motion, petition, or application shall be made in the motion, petition, or application, or in the reply thereto. If the Commission determines to hear oral argument, a notice will be issued setting forth the order of presentation and the amount of time allotted to each party.

(b)(1) Requests for oral argument will be granted or denied in the discretion of the Commission.

(2) Parties requesting oral argument shall set forth the specific issues they propose to address at oral argument.

(c) Those who appear before the Commission for oral argument shall confine their argument to points of controlling importance raised on exceptions or replies thereto. Where the facts of a case are adequately and accurately dealt with in the initial or recommended decision, parties should, as far as possible, address themselves in argument to the conclusions.

(d) Effort should be made by parties taking the same position to agree in advance of the argument upon those persons who are to present their side of the case, and the names of such persons and the amount of time requested should be received by the Commission not later than ten (10) days before the date set for the argument. The fewer the number of persons making the argument the more effectively can the parties' interests be presented in the time allotted. [Rule 241.]

[49 FR 44369, Nov. 6, 1984, as amended at 52 FR 4144, Feb. 10, 1987]

**§ 502.242 Submission to Commission for final decision.**

A proceeding will be deemed submitted to the Commission for final decision as follows: (a) If oral argument is had, the date of completion thereof, or if memoranda on points of law are permitted to be filed after argument, the last date of such filing; (b) if oral argument is not had, the last date when ex-

ceptions or replies thereto are filed, or if exceptions are not filed, the expiration date for such exceptions; (c) in the case of an initial decision, the date of notice of the Commission's intention to review the decision, if such notice is given. [Rule 242.]

**§ 502.243 Participation of absent Commissioner.**

Any Commissioner who is not present at oral argument and who is otherwise authorized to participate in a decision shall participate in making that decision after reading the transcript of oral argument unless he or she files in writing an election not to participate. [Rule 243.]

**Subpart O—Reparation**

**§ 502.251 Proof on award of reparation.**

If many shipments or points of origin or destination are involved in a proceeding in which reparation is sought (See § 502.63), the Commission will determine in its decision the issues as to violations, injury to complainant, and right to reparation. If complainant is found entitled to reparation, the parties thereafter will be given an opportunity to agree or make proof respecting the shipments and pecuniary amount of reparation due before the order of the Commission awarding reparation is entered. In such cases, freight bills and other exhibits bearing on the details of all shipments, and the amount of reparation on each, need not be produced at the original hearing unless called for or needed to develop other pertinent facts. [Rule 251.]

**§ 502.252 Reparation statements.**

When the Commission finds that reparation is due, but that the amount cannot be ascertained upon the record before it, the complainant shall immediately prepare a statement in accordance with the approved reparation statement in Exhibit No. 1 to this subpart, showing details of the shipments on which reparation is claimed. This statement shall not include any shipments not covered by the findings of the Commission. Complainant shall forward the statement, together with the paid freight bills on the shipments,